

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE LANTUS DIRECT PURCHASER
ANTITRUST LITIGATION.

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) Civil No. 16-12652-LTS
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ORDER ON REPORT AND RECOMMENDATION (DOC. NO. 418) ON
MOTIONS FOR SUMMARY JUDGMENT (DOC. NOS. 308, 311)

September 14, 2022

SOROKIN, J.

On August 17, 2022, Magistrate Judge Dein issued a sixty-seven-page Report and Recommendation (“R&R”) in which she recommended that this Court deny a motion for partial summary judgment filed by the Direct Purchaser Plaintiffs and allow a motion for summary judgment filed by defendant Sanofi-Aventis Puerto Rico, Inc. Doc. No. 418.¹ Objections to the R&R were due on August 31, 2022. Only one objection, made by both defendants in the case, was filed. Doc. No. 424. The defendants advance two narrow challenges to Judge Dein’s R&R: 1) they contend that state-action immunity bars claims arising from purchases made in Puerto Rico; and 2) they claim that the “control exception” allowing for certain indirect purchasers to pursue antitrust claims “cannot apply” to purchasers in Puerto Rico because “an independent third party control[led] the price” charged there. *Id.* at 2-3.

The Court has carefully reviewed the defendants’ objections and, after de novo review of the motions for summary judgment, it APPROVES AND ADOPTS Judge Dein’s thoughtful and comprehensive R&R (Doc. No. 418). Accordingly, the Direct Purchaser Plaintiffs’ Motion for

¹ The R&R included confidential information, which Judge Dein redacted in a public version of the R&R (Doc. No. 418-1) at the request of the parties.

Partial Summary Judgment as to Standing to Pursue Puerto Rico Overcharges from Sanofi-Aventis U.S. LLC (Doc. No. 308) is DENIED, and Defendant Sanofi-Aventis Puerto Rico, Inc.'s Motion for Summary Judgment (Doc. No. 311) is ALLOWED.

This matter remains referred to Judge Dein for all pretrial management, including reports and recommendations on any further dispositive motions.

SO ORDERED.

/s/ Leo T. Sorokin
United States District Judge